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★ MAR 11 2020 ★

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
KHALID AWAN,

Plaintiff,

-against-

UNITED STATES OF AMERICA

Defendant.

-----x
AMON, United States District Judge:

Plaintiff Khalid Awan brings this action pro se against the United States of America (the “Government”), alleging that the Government violated: (1) his rights under Article 36 of the Vienna Convention on Consular Relations, and (2) the Alien Tort Claims Act (also known as the Alien Tort Statute (“ATS”)) of 28 U.S.C. § 1330 by failing to comply with the provisions of Article 36. (ECF Docket Entry (“D.E.”) # 1.) The Government moved to dismiss pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure for lack of jurisdiction and for failure to state a claim, respectively. (D.E. ## 18, 27.) Awan then moved to amend the complaint to plead actionable claims under Bivens. (D.E. # 20.) This Court referred Awan’s motion to amend and the Government’s motion to dismiss to the Honorable Vera M. Scanlon, United States Magistrate Judge, for report and recommendation (“R&R”). (D.E. dated 12/21/2017.) Magistrate Judge Scanlon submitted an R&R recommending that this Court grant the Government’s motion to dismiss pursuant to Rules 12(b)(1) and 12(b)(6) and deny Awan’s request to amend the complaint as futile.

No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt a report and recommendation, a district court “may accept, reject, or modify, in

whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted). The Court has reviewed the record and, finding no clear error, adopts the well-reasoned R&R.

Defendant’s motion to dismiss for lack of jurisdiction pursuant to Rule 12(b)(1) is granted, Defendant’s motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6) is granted, and Plaintiff’s request to amend the complaint is denied as futile. This action is therefore dismissed, and the Clerk of Court is respectfully directed to close the case.

SO ORDERED.

Dated: March 11, 2020
Brooklyn, New York

s/C ~~Carol Bagley Amon~~
Carol Bagley Amon
United States District Judge